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Attorneys for Plaintiff: CARMEN JOHN PERRI

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA- WESTERN DIVISION

CARMEN JOHN PERRI, an
individual,

Plaintiff,

V.

PUBLIC STORAGE, a business of unknown form; and DOES 1-10, inclusive,

Defendants.

Case No.

Complaint For Damages And Injunctive Relief For:

- 1. VIOLATIONS OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990, 42 U.S.C. §12181 *et seq.***
- 2. VIOLATIONS OF THE UNRUH
CIVIL RIGHTS ACT, CALIFORNIA
CIVIL CODE § 51 *et seq.***

Plaintiff, CARMEN JOHN PERRI (“Plaintiff”), complains of Defendant PUBLIC STORAGE, a business of unknown form; and Does 1-10 (“Defendants”) and alleges as follows:

PARTIES:

1. Plaintiff is an adult California resident. Plaintiff has a Disabled Person

1 Parking Placard issued to him by the State of California. Plaintiff is substantially
2 limited in performing one or more major life activities, including but not limited to:
3 walking, standing, ambulating, sitting and grasping objects. As a result of these
4 disabilities, Plaintiff relies upon mobility devices, including at times a wheelchair, to
5 ambulate. With such disabilities, Plaintiff qualifies as a member of a protected class
6 under the Americans with Disabilities Act (“ADA”), 42 U.S.C. §12102(2) and the
7 regulations implementing the ADA set forth at 28 C.F.R. §§ 36.101 et seq.

8 2. Plaintiff brings this action acting as a “private attorney general” as
9 permitted under the American with Disabilities Act of 1990 (“ADA”) to privatize
10 enforcement of the ADA without the American tax payer(s) bearing the financial tax
11 burden for such action.

12 3. Plaintiff is informed and believes and thereon alleges that Defendant
13 owned the property located at 11200 W. Pico Blvd Los Angeles, CA 90064
14 (“Property”) on or around February 3, 2018 and October 17, 2018.

15 4. Plaintiff is informed and believes and thereon alleges that Defendant
16 owns the Property currently.

17 5. Plaintiff is informed and believes and thereon alleges that Defendant
18 PUBLIC STORAGE, a business of unknown form, owned, operated, and controlled
19 PUBLIC STORAGE, a business of unknown form (“Business”) located at the
20 Property on February 3, 2018 and October 17, 2018.

21 6. Defendant PUBLIC STORAGE, a business of unknown form, operates
22 and controls the Business located at the Property currently.

23 7. Plaintiff does not know the true names of Defendants, their business
24 capacities, their ownership connection to the subject property and business, or their
25 relative responsibilities in causing the access violations herein complained of, and
26 alleges a joint venture and common enterprise by all such Defendants. Plaintiff is

1 informed and believes that each of the Defendants herein, including Does 1 through
2 10, inclusive, is responsible in some capacity for the events herein alleged, or is a
3 necessary party for obtaining appropriate relief. Plaintiff will seek leave to amend
4 when the true names, capacities, connections, and responsibilities of the Defendants
5 and Does 1 through 10, inclusive, are ascertained.

6 **JURISDICTION AND VENUE**

7 8. This Court has subject matter jurisdiction over this action pursuant
8 to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
9 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. ("ADA").

10 9. This court has supplemental jurisdiction over Plaintiff's non-federal
11 claims pursuant to 28 U.S.C. § 1337, because Plaintiff's Unruh Civil Rights Act
12 ("UCRA") claims are so related to Plaintiff's federal ADA claims in that they have
13 the same nucleus of operative facts and arising out of the same transactions, they
14 form part of the same case or controversy under Article III of the United States
15 Constitution.

16 10. Venue is proper in this court pursuant to 28 U.S.C. §1331 because the
17 real property which is the subject of this action is located in this district and because
18 Plaintiff's causes of action arose in this district.

19 **FACTUAL ALLEGATIONS**

20 11. Plaintiff went to the Business on or about February 3, 2018 and October
21 17, 2018 to purchase boxes.

22 12. The Business is a facility open to the public, a place of public
23 accommodation, and a business establishment.

24 13. Parking spaces are one of the facilities, privileges and advantages
25 reserved by defendants to persons at the property serving the Business.

26 14. Unfortunately, although parking spaces were one of the facilities
27 reserved for patrons, there were no designated parking spaces available for persons
28 with disabilities that complied with the Americans with Disability Act Accessibility

1 Guidelines (“ADAAG”) on February 3, 2018 and October 17, 2018.
2

3 15. Instead of having architectural barrier free facilities for patrons with
4 disabilities, Defendants have: a built up curb ramp that projects from the sidewalk
5 and into the access aisle (Section 406.5). Furthermore, the curb ramp is in excess of
6 the maximum grade allowed by ADAAG specifications (Section 406.1); a door latch
7 lock that requires tight grasping; a towel dispenser that is too high according to
8 ADAAG specifications; and, a service counter that is too high according to ADAAG
9 specifications.

10 16. Subject to the reservation of rights to assert further violations of law
11 after a site inspection found *infra*, Plaintiff asserts there are additional ADA
12 violations which affect him personally.

13 17. Plaintiff is informed and believes and thereon alleges Defendants had
14 no policy or plan in place to make sure that there was a compliant accessible access
15 parking reserved for persons with disabilities prior to February 3, 2018 and October
16 17, 2018.

17 18. Plaintiff is informed and believes and thereon alleges Defendants have
18 no policy or plan in place to make sure that the designated disabled parking for
19 persons with disabilities comport with the ADAAG.

20 19. The designated disabled parking spaces for use by persons with
21 disabilities are a tip over, crash, fall hazard or trip hazard because it contains a built
22 up curb ramp and cross slopes.

23 20. Plaintiff personally encountered these barriers. These inaccessible
24 conditions denied the Plaintiff full and equal access and caused him difficulty,
25 humiliation and frustration.

26 21. As an individual with a mobility disability who at times is dependent
27 upon a wheelchair or other mobility device, Plaintiff has a keen interest in whether
28 public accommodations have architectural barriers that impede full accessibility to

1 those accommodations by individuals with mobility impairments.

2 22. Plaintiff is being deterred from patronizing the Business and its
3 accommodations on particular occasions, but intends to return to the Business for the
4 dual purpose of availing himself of the goods and services offered to the public and
5 to ensure that the Business ceases evading its responsibilities under federal and state
6 law.

7 23. The defendants have failed to maintain in working and useable
8 conditions those features required to provide ready access to persons with
9 disabilities.

10 24. The violations identified above are easily removed without much
11 difficulty or expense. They are the types of barriers identified by the Department of
12 Justice as presumably readily achievable to remove and, in fact, these barriers are
13 readily achievable to remove. Moreover, there are numerous alternative
14 accommodations that could be made to provide a greater level of access if complete
15 removal were not achievable.

16 25. Given the obvious and blatant violation alleged hereinabove, Plaintiff
17 alleges, on information and belief, that there are other violations and barriers in the
18 site that relate to his disability. Plaintiff will amend the complaint, to provide proper
19 notice regarding the scope of this lawsuit, once he conducts a site inspection.
20 However, please be on notice that the Plaintiff seeks to have all barriers related to
21 his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding
22 that once a plaintiff encounters one barrier at a site, the plaintiff can sue to have all
23 barriers that relate to his disability removed regardless of whether he personally
24 encountered them).

25 26. Given the obvious and blatant violation alleged hereinabove, Plaintiff
26 alleges, on information and belief, that the failure to remove these barriers was
27 intentional because: (1) these particular barriers are intuitive and obvious; (2) the
28 defendants exercised control and dominion over the conditions at this location prior

1 to February 3, 2018 and October 17, 2018, (3) the lack of accessible facilities was
2 not an accident because had the defendants intended any other configuration, they
3 had the means and ability to make the change.

4 27. Without injunctive relief, plaintiff will continue to be unable to fully
5 access Defendants' facilities in violation of Plaintiff's rights under the ADA.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990,**

8 **42 U.S.C. § 12181 et seq.**

9 28. Plaintiff re-alleges and incorporates by reference all paragraphs alleged
10 above and each and every other paragraph in this Complaint necessary or helpful to
11 state this cause of action as though fully set forth herein.

12 29. Under the ADA, it is an act of discrimination to fail to ensure that the
13 privileges, advantages, accommodations, facilities, goods, and services of any place
14 of public accommodation are offered on a full and equal basis by anyone who owns,
15 leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a).
16 Discrimination is defined, *inter alia*, as follows:

17 a. A failure to make reasonable modifications in policies, practices,
18 or procedures, when such modifications are necessary to afford
19 goods, services, facilities, privileges, advantages, or
20 accommodations to individuals with disabilities, unless the
21 accommodation would work a fundamental alteration of those
22 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

23 b. A failure to remove architectural barriers where such removal is
24 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
25 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
26 Appendix "D".

27 c. A failure to make alterations in such a manner that, to the
28 maximum extent feasible, the altered portions of the facility are

readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

30. Any business that provides parking spaces must provide accessible parking spaces. 1991 Standards § 4.1.2(5). 2010 Standards § 208. Under the 1991 Standards, parking spaces and access aisles must be level with surface slopes not exceeding 1:50 (2.0%) in all directions. 1991 Standards § 4.6.2. Under the 2010 Standards, access aisles shall be at the same level as the parking spaces they serve. Changes in level are not permitted. 2010 Standards § 502.4. "Access aisles are required to be nearly level in all directions to provide a surface for wheelchair transfer to and from vehicles." 2010 Standards § 502.4 Advisory. Here the failure to provide a level access aisle in the designated disabled parking space is a violation of the law and excess slope angle in the access pathway is a violation of the law.

31. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

32. Here, the failure to ensure that accessible facilities were available and ready to be used by Plaintiff is a violation of law.

33. Given its location and options, Plaintiff will continue to desire to patronize the Business but he has been and will continue to be discriminated against due to lack of accessible facilities and, therefore, seeks injunctive relief to remove the barriers.

SECOND CAUSE OF ACTION

VIOLATION OF THE UCRA, CALIFORNIA CIVIL CODE § 51 *et seq.*

34. Plaintiff re-alleges and incorporates by reference all paragraphs alleged

1 above and each and every other paragraph in this Complaint necessary or helpful to
2 state this cause of action as though fully set forth herein.

3 35. California Civil Code § 51 *et seq.* guarantees equal access for people
4 with disabilities to the accommodations, advantages, facilities, privileges, and
5 services of all business establishments of any kind whatsoever. Defendants are
6 systematically violating the UCRA, Civil Code § 51 *et seq.*

7 36. Because Defendants violate Plaintiff's rights under the ADA, they also
8 violated the UCRA and are liable for damages. (Civ. Code § 51(f), 52(a).) These
9 violations are ongoing.

10 37. Plaintiff is informed and believes and thereon alleges that Defendants'
11 actions constitute intentional discrimination against Plaintiff on the basis of a
12 disability, in violation of the UCRA, Civil Code § 51 *et seq.*, because Defendants
13 have been previously put on actual or constructive notice that the Business is
14 inaccessible to Plaintiff. Despite this knowledge, Defendants maintain their
15 premises in an inaccessible form, and Defendants have failed to take actions to
16 correct these barriers.

17 **PRAAYER**

18 **WHEREFORE, Plaintiff prays that this court award damages provide relief as**
19 **follows:**

20 1. A preliminary and permanent injunction enjoining Defendants from
21 further violations of the ADA, 42 U.S.C. § 12181 *et seq.*, and UCRA, Civil Code §
22 51 *et seq.* with respect to its operation of the Business and Property; **Note: Plaintiff**
23 **is not invoking section 55, *et seq.*, of the California Civil Code and is not seeking**
24 **injunctive relief under the Disable Persons Act (Cal. C.C. §54) at all.**

25 2. An award of actual damages and statutory damages of not less than
26 \$4,000 per violation pursuant to § 52(a) of the California Civil Code;

27 3. An additional award of \$4,000.00 as deterrence damages for each
28 violation pursuant to *Johnson v. Guedoir*, 218 F. Supp. 3d 1096; 2016 U.S. Dist.

LEXIS 150740 (USDC Cal. E.D. 2016);

4. For reasonable attorneys' fees, litigation expenses, and costs of suit, pursuant to 42 U.S.C. § 12205; California Civil Code § 52;

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully requests a trial by jury on all appropriate issues raised in this Complaint.

Dated: October 22, 2018

MANNING LAW, APC

By: /s/ Joseph R. Manning Jr., Esq.

Joseph R. Manning Jr., Esq.

Michael J. Manning, Esq.

Craig G. Côté, Esq.

Atorneys for Plaintiff